

3. The United States and Defendant agree that, at the United States' discretion, upon issuance of a restitution order to victims with quantifiable losses in this criminal case, the United States may (1) request that this Court dismiss from this forfeiture order specific assets in a quantity sufficient to satisfy the restitution ordered by this Court and (2) request that this Court issue process sufficient to ensure transfer of the dismissed specific assets directly from USSS or TEAOF to victims, to the Clerk of Court to pay victims, or to another appropriate payment processor or entity employed to pay victims. In the event that some, but not all, specific assets are dismissed from this order to pay victims, Defendant agrees and consents to the forfeiture to the United States of any remaining specific assets that are not dismissed.

Forfeiture Order (#28) at ¶ 3. Put another way, it is clearly up to the United States, in its discretion, to move this Court to transfer assets from the forfeiture to cover the losses of the identified victims. This Court recalls well that the Ponzi scheme here took some 6.8 million dollars from victims, with 209 of those victims coming forward seeking in excess of \$300,000 in restitution. This Court will not in any manner release or deem satisfied the restitution obligation in this matter until it is assured by the United States and the Clerk of this Court that all the victims who have come forward have been paid in full.

Finally, defendant's citation to "18 U.S.C. § 3663(A)(a)(2)" is both incorrect and unavailing. There simply is no such provision and the Court has read and cannot find any authority in § 3663 to set aside restitution in what is now a final Judgment. If defendant intended to cite §3663A(a)(2), which is a completely separate law, that provision does not provide authority for this Court to set aside restitution that is included in a Judgment.

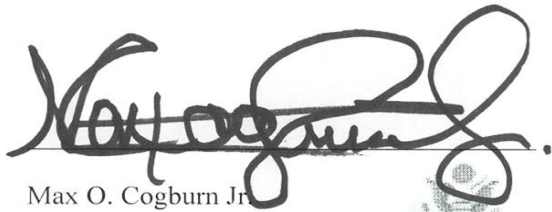
While it appears arguable that the Forfeiture Order may provide some relief, it appears that any such request must originate with the government, not the defendant. Further, it appears to be left to the *discretion* of the United States Attorney to move under the Forfeiture Order for any relief herein.

ORDER

IT IS, THEREFORE, ORDERED that defendant's pro se Motion to have Restitution Set Aside Pursuant to 18 U.S.C. § 3663(A)(a)(2)" (#59) is **DENIED** without prejudice.

The Clerk of Court is directed to provide **AUSA Benjamin Bain-Creed** with a copy of this Order, who may be able to provide further insight into the status of matters agreed to in the Forfeiture Order.

Signed: March 8, 2018

A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", written over a horizontal line.

Max O. Cogburn Jr.
United States District Judge